

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

27658

FILE:

B-214481

DATE:

March 13, 1984

MATTER OF:

Okaw Industries, Inc.

DIGEST:

GAO will not review rejection of the low bid of a small business bidder as nonresponsible where the bidder failed to file an application for a certificate of competency with the Small Business Administration.

Okaw Industries, Inc. (Okaw), protests the Army's rejection of its low bid submitted under invitation for bids (IFB) No. DAAJ09-83-B-A742. Okaw contends that the contracting officer's determination that Okaw was nonresponsible and, therefore, ineligible for award was based on negative findings contained in a preaward survey. Okaw argues that the preaward survey was unfairly conducted, that the survey findings were unsupported, and that the contracting officer should have given Okaw an opportunity to rebut the negative remarks contained in the preaward survey.

The documents attached to Okaw's protest letter show that the Army did initially determine Okaw to be nonresponsible. However, because of Okaw's small business size status, the Army referred the matter to the regional office of the Small Business Administration (SBA) for review under the SBA's certificate of competency (COC) procedures. The record also shows that the Army provided Okaw with an application for a COC, but that Okaw did not file the COC application or supporting documentation with the SBA. Since no COC application was filed by Okaw, the SBA did not issue a COC and Okaw's bid was subsequently rejected on the basis that Okaw was nonresponsible.

It is the responsibility of a small business firm determined to be nonresponsible to file a complete and acceptable COC application with the SBA in order to avail itself of the possible protection provided by statute and regulation against unreasonable determinations by

028251

contracting officers as to its responsibility. Greenbrier Industries, Inc., B-191380, April 24, 1978, 78-1 CPD 315. Under 15 U.S.C. § 637(b)(7) (1982), as amended by Pub. L. 95-89 § 501, 91 Stat. 561, August 4, 1977, the SBA has the conclusive authority to issue or deny a COC. Where a firm does not file for a COC with the SBA, we will not review the contracting officer's determination of nonresponsibility since such action, in effect, would amount to a substitution of this Office for the agency specifically authorized by statute to review such determinations. Syndex Recovery Systems, Inc., B-210455, February 14, 1983, 83-1 CPD 155.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel